

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

GERRY BARRETT, SR.,  
*Plaintiff,*

vs.

WHARTON COUNTY,  
*Defendant.*

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CIVIL ACTION H-05-0726

**ORDER**

Before the court is defendant Wharton County's second motion to compel (Dkt. 24). Like the first motion to compel, the plaintiff Gerry Barrett, Sr. has not responded to it, and therefore the court will treat it as unopposed. *See* S.D. Tex. Loc. R. 7.4 ("Failure to respond will be taken as a representation of no opposition"). Accordingly, the motion is granted. Barrett is ordered to respond to Wharton County's Interrogatories and Requests for Production; produce documents, including video and audiotapes, mentioned at his deposition; and supplement his initial disclosures.<sup>1</sup>

On November 30, 2005, the court ordered Barrett to reimburse Wharton County costs of \$205.70 for failing to appear for a deposition. Barrett has failed to comply with that order. As a sanction for this non-compliance, Barrett is ordered to

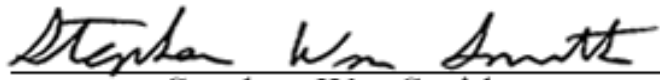
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<sup>1</sup> Under Rule 26(a)(1), disclosures are to be provided to the other party, but need not be filed with the court, notwithstanding any contrary suggestion in this court's previous order. *See* FED. R. CIV. P. 26(a)(1).

reimburse Wharton County the sum of \$250.00 in attorneys fees incurred by this motion, in addition to the previously awarded amount.

Barrett is advised, for the second time, that if he continues to flout the rules of discovery or any order of the court, his case may be involuntarily dismissed under Federal Rule of Civil Procedure 41(b). The terms of this order are to be met by May 1, 2006.

Signed on April 20, 2006, at Houston, Texas.

  
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Stephen Wm Smith  
United States Magistrate Judge